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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/172743

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 14, 2016, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Fond Du Lac County Department of Social Services in regard to Child Care (CC), a hearing was held on April 07, 2016, at Fond Du Lac, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner child care assistance effective March 1, 2016.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

Attorney Emily E. Parks  
17 Forest Ave Suite 110  
Fond Du Lac, WI 54935-4152

Respondent:

Department of Children and Families  
201 East Washington Avenue, Room G200  
Madison, Wisconsin 53703

By: [REDACTED]

Fond Du Lac County Department of Social Services  
50 N Portland St  
Fond Du Lac, WI 54935

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.
2. On December 4, 2015 the petitioner applied for childcare assistance for her two grandchildren. The petitioner and her husband have guardianship of these two grandchildren.

3. The petitioner's monthly household gross income was more than \$8,000. This income is from the petitioner and her husband's employment.
4. The agency originally disregarded the household income, and opened to family for child care assistance. This was due to the guardianship.
5. The agency later learned that they had to count the grandparent's income, and deny child care assistance. The family would be eligible for child care assistance if they received kinship care.
6. The petitioner did not receive kinship care in December 2015 or January 2016.
7. On January 20, 2016 the agency sent the petitioner a notice stating that she was ineligible for child care assistance effective March 1, 2016.
8. In February 2016 the petitioner applied for kinship care.
9. On March 14, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

### **DISCUSSION**

The purpose of the Wisconsin Shares Child Care Program is to provide child care assistance for working low-income families. *Child Care Manual* § 1.1.1. The Wisconsin Shares Child Care Program is regulated under DCF 201 Administration of Child Care Funds (administrative code) and Wisconsin Statutes s. 49.155 Stats. *Child Care Manual* § 1.1.1.

In order to qualify for child care assistance, the recipient must be financially eligible for childcare assistance. *Child Care Manual* § 1.5.0 (viewable online at <http://dcf.wisconsin.gov/childcare/wishares/manual.htm> (last viewed June 2016)). Generally the income limit for an initial application is 185% FPL. This is a monthly gross income of \$3,739 for a household size of four. *Id.* § at 1.5.1. The financial eligibility test for foster care, subsidized guardianship, interim caretaker, and relatives with court-ordered placement who receive a Kinship Care payment is based upon the child's biological or adoptive parents' income tested at 200% Federal Poverty Level (FPL) at the time the child was removed from the home. *Id.* at § 1.8.1.

The recipient must also be in an "approved activity." The term "approved activity" is a term of art in child care assistance cases. *Id.* Approved activities include employment with a qualified employer or if the parent needs the care to attend Wisconsin Works (W-2) approved school, to work, or to participate in W-2 activities. *Id.* at § 1.5.3.1 and § 1.5.4.

In this case the agency incorrectly authorized child care assistance. This caused an overpayment due to agency error. The petitioner is responsible to pay back that overpayment. The overpayment is discussed in 173744. If the agency had continued to incorrectly approve child care assistance for the petitioner, this would have created a larger overpayment that the petitioner would be responsible to repay.

Given the household's monthly gross income of more than \$8,000 the policy and regulations require that the family be approved for kinship care in order to receive child care assistance. The petitioner applied for kinship care in February 2016. If the application is approved, the petitioner can reapply for child care assistance. Given that the petitioner did not have previously have kinship care benefits, the agency correctly denied child care assistance.

### **CONCLUSIONS OF LAW**

The agency correctly denied the petitioner child care assistance effective March 1, 2016.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 6th day of June, 2016

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on June 6, 2016.

Fond Du Lac County Department of Social Services  
Child Care Benefits